

Notice of Allowability

Application No.

10/056,906

Examiner

Charles D. Garber

Applicant(s)

RENKEN, WAYNE G.

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/12/2003.
2. ☒ The allowed claim(s) is/are 2-20, 44, 48-50 and 54-63.
3. ☒ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 07/12/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/12/2004 has been entered.

Allowable Subject Matter

Claims 2-20, 44, 48-50, 54 and 55-63 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding new claim 55, the limitations are identical with previously rejected claim 46 except for the Applicant's substitution of the word "encompassing" for the word "including" in the limitation "the electronics platform encompassing at least one integrated circuit". In the discussion that follows Examiner relies upon several dictionary definitions taken from Merriam-Webster Online Dictionary (<http://www.m-w.com/cgi-bin/dictionary>) that are current as of the date of this Office Action.

Examiner had previously relied upon the Baker reference ("A Novel In Situ Monitoring Technique for Reactive Ion Etching Using a Surface Micromachined Sensor", IEEE Transactions on Semiconductor Manufacturing, Volume II, Number 2, May 1998) and figure 4e showing an electrode supported on two legs to teach an electronics platform including an integrated circuit.

The term "including" is generally defined as meaning "to shut up" or "enclose" but also to mean "to take in or comprise as a part of a whole". This second definition was relevant to the issue at hand. Applicant argued in the earlier interview that the electrode or platform of Baker did not include (in the sense of enclose) a circuit, that the electrode was only part of a circuit. The term "circuit" means the complete path of an electric current including usually (but not always) the source of electric energy or an assemblage of electronic elements. The device shown in figure 4e is a complete sensor including the platform-like electrode that cooperates over an airgap with lower electrodes forming a resonator that Examiner considered to be a complete sensor circuit (albeit without including the driving and interpretive electronics). The platform portion alone was only part of a circuit, not a whole circuit. Examiner took the position of broadly taking "including" to mean the electrode (platform) need only comprise a portion of the circuit as a part of a whole circuit, which was satisfied by Baker.

Examiner suggested that in order overcome the Baker reference Applicant use terminology that would exclude this second more broad definition of "including" and recommended a term such as "encompass". Encompass is generally defined as to form a circle about or to go completely around. The platform electrode taught by Baker would not read upon the instant invention that encompasses an integrated circuit (in other words includes a whole circuit) on the platform.

New claims 56-63, depending from allowed claim 55, are allowed for the same reason.

See earlier Office Actions for reasons for allowance of remaining claims 2-20, 44, 48-50, 54.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles D. Garber whose telephone number is (571) 272-2194. The examiner can normally be reached on 6:30 a.m. to 3:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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